HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition no. 442 of 2006 (MS)

1. Raja Ram s/o Sri Aman Chand
2. Smt. Krishna Devi w/o Sri Raja Ram
Residents of Municipal Quarter, Near Pashu Chikitsalaya, Mayapur, Haridwar ..... Petitioners

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar through its Executive Officer ..... Respondents

Writ Petition no. 443 of 2006 (MS)

Smt. Sushila w/o Sri Vishnu Dutt Sharma
Quarter No. 3, Sharvan Nath Park, Mayapur
Haridwar ..... Petitioner.

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar, Haridwar through its Executive Officer ..... Respondents

Writ Petition No. 452 of 2006 (MS)

Lahri Singh Rajasva Nirikshak,
Quarter No. 4, Mayapur
Haridwar ..... Petitioner

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar through its Executive Officer ..... Respondents

Writ Petition No. 453 of 2006 (MS)

Ganga Prasad s/o Sri Mukund Lal
Municipal Quarter, Mayapur
Haridwar ..... Petitioner.

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar through its Executive Officer ..... Respondents

Writ Petition No. 455 of 2006 (MS)

Girija Dayal Tripathi s/o Sri Ram Lal Tripathi
Municipal Quarter, Mayapur
Haridwar ..... Petitioner.

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar through its Executive Officer ..... Respondents

Writ Petition No. 458 of 2006 (MS)

Dhan Prakash Sharma s/o Sri Devi Chand Sharma
Quarter No. 2 Sharvan Nath Nagar, Haridwar
..... Petitioner.

Versus

1. Prescribed Authority/S.D.M. Haridwar
2. Nagar Palika Parishad, Haridwar through its Executive Officer ..... Respondents

Sri Alok Singh, Sr. Advocate assisted by Sri D. Barthwal for the petitioners.
Standing Counsel for the respondents.

Dated: 27.4.2006

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties at length.

By the present writ petitions, the petitioners have prayed for a writ of certiorari quashing the order dated 27.1.2006 passed by the Prescribed Authority, Haridwar.

Briefly stated, proceedings under U.P. Public Premises (Eviction of Unauthorized Occupants) Act, were initiated by the respondent no. 2 against the petitioners. During the proceedings of the case petitioners have filed an application under section 8(b)(c) of U.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1972 the said application was rejected vide order dated 27.1.2006. Section 8 reads as under:

"The prescribed authority and the appellate officer shall for the purpose of holding any inquiry or hearing any appeal under his Act, have the same power as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed."

The prescribed authority has held that since the tenancy has already been terminated, therefore, the possession of the petitioners is unauthorized. However, the prescribed authority has observed that the petitioners have not disclosed in what manner they wanted to prove their right over the property in dispute only then Nagar Palika Parishad will be able to file documentary evidence. It is settled law that technicalities of law should not come in the dispensation of justice. Liberty is given to both the parties to adduce their evidence. The prescribed

authority shall permit both the parties to lead evidence in support of their cases.

Subject to the observation made above, the writ petitions are disposed of.

Dated: 27.4.2006 **Rajesh Tandon, J.**

*Dhyani